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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
(Isle of Man)

V.89-58599

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN: ISLE OF MAN INITIAL REPORT

Part One

A. General, social, economic, political and legal framework.

A1. General

1. The Isle of Man is a largely self governing dependency of the British Crown, being a territory for whose international affairs the United Kingdom is responsible. Appended to this report is the "Digest of Economic and Social Statistics 1988" to which reference will be made in this report. The Digest will be referred to as "the 1988 Digest".

Physical Features

2. The Isle of Man lies in the Irish Sea between Great Britain and Ireland. The Island is approximately 33 miles in length and 14 miles in width, and has a land area of 572 km (221 square miles). (See para. 1.4 of the 1988 Digest). The centre of the Island is open moorland, cut by steep sided valleys, with hills rising to 621 metres. The northern part of the Island is an extensive fertile plain, and there is also good agricultural land along the east and southern coasts. The Island is in the geographical centre of the British Isles being, at the nearest points, 48 km to the west of England, 43 km to the east of Ireland, 26 km to the south of Scotland and 77 km to the north of Wales. (See para. 1.2 of the 1988 Digest).

3. The climate of the Isle of Man is temperate and lacking in extremes. The monthly average of sunshine is 130 hours and the sunniest months are April, May and June when the monthly average of sunshine is 210 hours. Rainfall is variable being highest in the centre of the Island, and is least in the extreme south (760 mm p.a.). Snowfall is infrequent. The highest recorded temperature is 28.9 degrees centigrade (July 1983) and the lowest is - 11.7 degrees centigrade (February 1895).

A2. Social Framework

Population

4. The resident population of the Isle of Man, according to the last full census in April 1981, was 64,679 (30,901 male and 33,778 female). However the population has been steadily rising since 1961, following a period of economic depression between 1950 and 1960 when the population was falling. It is believed that the present population (1988) is approximately 69,000. About 50% of the population were born on the Island, but a large proportion of those who were not born in the Island have close family connections with the Island. Since 1971 there has been an influx of new residents from other parts of the British Isles. As many new residents are in the older age groups, and as many young people leave the Island to pursue careers elsewhere, the Island's population has a high proportion of persons over retirement age (23.8% in 1981). (For 1988 figures see table 2.5 of the 1988

Digest). In 1988 there are approximately 10,000 children attending primary and secondary schools in the Island. (See table 11.1 of the 1988 Digest).

5. The population density of the Island in 1981 was 113 per square km. Nearly half the Island's population is concentrated in the urban area which comprises the capital, Douglas, and Onchan, an adjoining residential district. Although there are a few families of non-european origin resident in the Island, the numbers are not large enough to constitute any ethnic minorities.

6. Until the beginning of the 19th century the language of the people was Manx which is a dialect of Gaelic. During the last century the use of Manx Gaelic rapidly declined, and is today spoken by only a small handful of enthusiasts. English is now the only language in normal use.

7. All the main Christian churches are represented in the Island. During the 19th century, and the early part of the 20th century, Methodism was a dominant force in the life of the Island, and although church attendance has declined, the values of Methodism have remained an important influence amongst Manx people. The Island constitutes a separate diocese of the Church of England, and the Bishop and other leaders of the Anglican church in the Island continue to have an important role in the life of the Island. The Roman Catholic community, which was very small in the 19th century, has grown rapidly during the present century. Relations between Roman Catholics and Protestants are

excellent, and there is virtually no trace of the communal tensions which exist in Northern Ireland (with which, in other respects, the Isle of Man has much in common).

Women

8. The position of women in the Isle of Man reflects closely the position of women in the United Kingdom. The franchise for elections to the House of Keys (the Island's elected assembly) was extended to some women as early as 1881 and, generally, the removal of legal sex discrimination has kept pace with changes in the United Kingdom. Equally changes in family structures, age of marriage, and the number of children in each family, have matched corresponding changes in the United Kingdom.

9. In 1981 (at the time of the last census) there were 27,564 people in employment (including self employment) which included 10,537 women, or 38.2% of the total workforce.

A3. The Economy.

10. From the end of the 19th century to the middle of the 20th century tourism constituted the dominant economic activity

11. Since the Second World War the economy of the Isle of Man has changed with the establishment of medium sized and small manufacturing businesses (particularly related to the aircraft industry). Since 1961 financial services including banking, insurance and investment services, have become the most important sectors of the economy. (See section 5 of the 1988 Digest).

Recently the Island has become a centre for ship management. (See para. 13.10 of the 1988 Digest). There has also been a rapid development of telecommunications services. Meanwhile the traditional activities of tourism, agriculture and fishing have all declined relatively. (See table 14.8 of the 1988 Digest).

A4 Government

12. The constitutional position of the Isle of Man is unique. For several centuries before 1266 the Island constituted a separate kingdom owing suzerainty to the Kings of Norway. In 1266 sovereignty was transferred by Norway to Scotland, and was subsequently transferred to England in the following century. However the form of government and the customary laws established during the period of the Norse Kingdom, and most significantly the Island Parliament known as "Tynwald", continued in being under Scottish and later English Sovereignty.

13. During the 14th century the Island was granted to several royal favourites by English sovereigns, and finally in 1405 to Sir John Stanley, whose family and descendants remained Lords of the Island until 1765, when their rights were re-purchased by the British Crown for £70,000. For some years after 1765, although Tynwald remained in being, the government of the Island was effectually vested in the Governor appointed by the British Crown.

14. In 1866 a measure of autonomy was restored to the Island, and Tynwald was granted some control over the Island's finances. During the following century the Island became largely self

governing. While the Parliament at Westminster retains power to legislate for the Isle of Man, and the Crown, acting through United Kingdom Ministers, is responsible for the ultimate good government of the Island and for its defence and international relations, the government and legislature of the Isle of Man are autonomous in matters which do not transcend the frontiers of the Island.

15. The legislature of the Isle of Man remains the ancient Tynwald, which comprises the House of Keys, which has 24 members elected every five years on universal adult suffrage, and the Legislative Council having 10 members, 8 elected by the House of Keys together with the Anglican Bishop and the Attorney General who has no vote. Joint sittings of the two branches of Tynwald are presided over by the Lieutenant Governor, who is the representative of the Crown on the Island.

16. The Executive Government of the Island is headed by the Chief Minister, who is elected by Tynwald, together with nine Ministers who each head one of the principal departments of the Government, and who, together with the Chief Minister, constitute the Executive Council.

17. There is no formal party system in Tynwald, although there are well defined interest groups. Tynwald has power to remove a Chief Minister and his Executive Council by a vote of no confidence. The nine Government Departments comprise the Treasury, and the Departments of Home Affairs, of Industry, of

Agriculture Fisheries and Forestry, of Health and Social Security, of Tourism and Transport, of Local Government and the Environment, of Education, and of Highways, Ports and Properties. There are also publicly owned utilities, namely the Post Office, the Electricity and Water Authorities and several regulatory bodies, namely the Financial Supervision Commission, the Insurance Authority and the Telecommunications Commission, and a Consumer Affairs Board.

A5. The Law.

18. The Manx legal system is derived ultimately from the Norse Kingdom which survived until 1266. The two judges of the High Court are known as the Deemsters, whose offices originated during the Norse period. There are also lay magistrates, as well as a professional magistrate known as the High Bailiff, who exercise summary jurisdiction. Appeals lie to the Judicial Committee of the Privy Council in London.

19. The ancient customary law of the Island has now been almost entirely superceded, in practice, by the adoption of English Common Law and Equity, although English Common Law has never formally been made part of the law of the Island.

20. The principal source of legislation is Tynwald, which has power to legislate on any subject, but in practice does not legislate for those matters (mainly connected with defence and international relations) which remain the responsibility of the United Kingdom. Acts of the Parliament at Westminster may

be extended to the Isle of Man.

21. The relationship of the Isle of Man to the European Community is regulated by Article 227 of the Treaty of Rome, and by Protocol 3 to the Act of Accession of the United Kingdom to the Community. The broad effect of these provisions is that the Treaty of Rome does not apply to the Isle of Man except for the limited purposes set out in the Protocol 3, which include the Community rules on customs matters and quantitative restrictions, and the rules relating to trade in agricultural products. The Island is not part of the European Community for fiscal purposes. (See para. 1.8.B of the 1988 Digest).

22. The Isle of Man, as a territory for whose international relations the United Kingdom is responsible, was made subject to the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1953. There has been one case, to date, in which the domestic law of the Island was found to be in breach of the Convention.

B. Legal and Other Measures Adopted.

23. There is no legislation in the Isle of Man, equivalent to the Sex Discrimination Act 1975 or the Equal Pay Act 1970 of the United Kingdom. A review of the law relating to employment, in all its aspects, has recently taken place. The report ("the Collinson Grant report") has now been received, and is appended hereto. The report and recommendations are now being studied by the Isle of Man Government. Future reports, as required by the

Convention, will give information about action which is taken to give effect to the recommendations in the Collinson Grant report. The Contracts of Employment Act 1981, of Tynwald, and the Employment Act 1986, of Tynwald which are described in the Collinson Grant report, have already introduced certain rights for women employees.

24. The social security system of the Isle of Man is broadly similar to that of the United Kingdom and the rights of women are fully recognised and protected. (See para 10.1 of the 1988 Digest).

C and D. Institution and Remedies, and Means.

25. The Trade Disputes Act 1985, of Tynwald, established an Employment Tribunal which now has an extended jurisdiction under the Employment Act 1986. The future of the Tribunal will be considered in the light of the recommendations in the Collinson Grant report.

26. Advice on consumer rights is open to women, and men, through the office of the Board of Consumer Affairs, and this is supported by a system of small claims arbitration, which now applies to all claims not exceeding £1,000. The small claims arbitration procedure has largely eliminated legal costs. Where preliminary legal advice is necessary, this may be available, free of charge, under the legal advice scheme or from a Citizen's Advice Bureau.

27. As the Isle of Man is a small community, the most effective remedy for a person who has a grievance is often by means of a

complaint direct to a member of the House of Keys, who can then exert his or her influence to have remedied any wrong, particularly if it is in the public sector.

28. Where a remedy has to be sought in the High Court, legal aid is available under a scheme comparable to that in force in the United Kingdom.

Part Two

29. On ratifying the convention the United Kingdom, on behalf of the Isle of Man (and certain other territories), made the following reservations:

(a) The United Kingdom understands that the main purpose of the Convention, in the light of the definition contained in Article 1, to be the reduction, in accordance with its terms, of discrimination against women, and does not therefore regard the Convention as imposing any requirement to repeal or modify any existing laws, regulations, customs or practices which provide for women to be treated more favourably than men, whether temporarily or in the longer term; the United Kingdom's undertakings under Article 4, paragraph 1, and other provisions of the Convention are to be construed accordingly.

(b) In the light of the definition contained in Article 1, the United Kingdom's ratification is subject to the understanding that none of its obligations under the Convention shall be treated as extending to the succession to, or possession or enjoyment of the Throne, the peerage, titles of honour, social precedence or armorial bearings, or is extending to the affairs of religious denominations or orders or to the admission into or service in the Armed Forces of the Crown.

(c) The United Kingdom reserves the right to continue to apply such immigration legislation governing entry into, stay in, and departure from, these territories as it may deem necessary from time to time and, accordingly, its acceptance of Article 15(4) and of the other provisions of the Convention is subject to the provisions of any such legislation as regards persons not at the time having the right under the law of these territories to enter and remain in these territories."

Article 1

Discrimination

30. This Article is subject to the following reservation:-

"The United Kingdom's acceptance of Article 1 is subject to the reservation that the phrase "irrespective of their marital status" shall not be taken to render discriminatory any difference of treatment accorded to single persons as against married persons, so long as there is equality of treatment as between married men and married women and as between single men and single women."

31. The Isle of Man does not have any laws which discriminate against women, (subject to the reservation referred to above and save in so far as any such laws are referred to in this report) but, on the other hand, the Isle of Man does not have any laws specifically designed to eliminate discrimination against women in

practice (if any such discrimination exists in practice).

Article 2

Elimination of Discrimination

32. This Article is subject to the following reservations:

"In the light of the substantial progress already achieved in these territories in promoting the progressive elimination of discrimination against women, the United Kingdom reserves the right, without prejudice to the other reservations made by the United Kingdom, to give effect to paragraphs (f) and (g) by keeping under review such of the laws and regulations of these territories as may still embody significant differences in treatment between men and women with a view to making changes to those laws and regulations when to do so would be compatible with essential and overriding considerations of economic policy. In relation to forms of discrimination more precisely prohibited by other provisions of the Convention, the obligations under this Article must (in the case of these territories) be read in conjunction with the other reservations and declarations made in respect of those provisions including the declarations and reservations of the United Kingdom contained in paragraphs (a) - (d) above.

> With regard to paragraphs (f) and (g) of this Article the United Kingdom reserves the right to continue to apply the laws of these territories relating to sexual offences and prostitution; this reservation will apply equally to any future law which may modify or replace them."

33. The constitution of the Isle of Man, like that of the United Kingdom, is not contained in any one document, but derives from the ancient customary law of the Island (particularly as regards the legislative powers of Tynwald), from Statute Law (both of Tynwald and of the Parliament of the United Kingdom) and from convention (particularly as regards the relationship of the Isle of Man to the United Kingdom). As stated above, it is believed that, subject to the qualifications referred to under Article 1, there are no laws in force in the Isle of Man which discriminate against women in any significant way. But there is no specific legislation designed to eliminate discrimination in practice (if any discrimination exists in practice). As stated in Part I of this report the Isle of Man Government is now studying the Collinson Grant report with regard to employment legislation, including the position of women in employment.

Article 3

Human Rights and Fundamental Freedoms

34. Rights in the law of the Isle of Man are residual. As in

the United Kingdom there is no Bill of Rights and rights are assumed unless limited by law. This applies equally to men and women.

35. The United Kingdom, on behalf of the Isle of Man, has ratified a number of International Human Rights instruments including the following:

1966 International Covenant on Civil and Political Rights

1966 International Covenant on Economic Social and Cultural Rights

1953 Convention on the Political Rights of Women

1965 International Convention on the Elimination of All Forms of Racial Discrimination

1948 Convention on the Prevention and Punishment of the Crime of Genocide

1960 Unesco Convention against Discrimination in Education

1950 European Convention for the Protection of Human Rights and Fundamental Freedoms with Protocols 2, 3, 5 and 8

1961 European Social Charter

Article 4

Temporary measures

36. The Isle of Man has not adopted any temporary measures which have entailed the maintenance of unequal or separate standards as between men and women.

Protection of Maternity

37. The Isle of Man has adopted measures protecting maternity which are referred to under Articles 11 and 12.

Article 5

Elimination of Prejudices and Stereotype roles

38. Broadcasting in the Isle of Man is controlled by the United Kingdom under Acts of Parliament which extend to the Isle of Man. However the content of local broadcasting by Manx Radio (which is a local radio station solely owned by the Manx Government) may not include material "which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling". (Broadcasting Commission (Isle of Man) Act, 1965, of Tynwald.)

39. Equally the Isle of Man has little control over the media, except local newspapers published in the Isle of Man. For the rest, media in the Isle of Man emanates from the United Kingdom.

Pornography

40. The principal legislation in the Isle of Man is the Obscene Publications and Indecent Advertisements Act, 1907, of Tynwald. Section 2 states:

"Whoever -

(a) prints, manufactures, keeps or causes to be printed, manufactured, or kept, for the purposes of sale, distribution, exhibition for the purposes of

gain, lending upon hire, or being otherwise published;

(b) knowingly permits to be printed, manufactured, or kept upon premises of which he is the occupier; or

(c) sells, distributes, exhibits, or publishes, or offers to sell, distribute, exhibit, or publish,

any indecent or obscene book, paper, writing, print, picture, drawing, photograph, image, figure, or other representation, shall be guilty of a misdemeanour and shall be liable -

(a) on conviction on information, to imprisonment for a term not exceeding two years or to a fine, or to both;

(b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £200, or to both"

41. Section 248 of the Local Government Act, 1916, of Tynwald, provides that -

"The High Bailiff shall have power, whenever he shall be of the opinion that it is fitting, for the preservation of good manners, decorum, or of the public peace so to do, to forbid the acting or presenting any stage play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, in any licensed theatre, either absolutely or for such time as he shall think fit."

42. Section 8 of the Isle of Man Post Office Authority (Postal Services Etc.) Act, 1973, of Tynwald, makes it an offence to send a postal packet which -

> "(b) encloses any indecent or obscene print, painting, photograph, lithograph, engraving, cinematograph film, book, card or other written communication, or any indecent or obscene article whether similar to the above or not; or
>
> (c) has on the packet, or on the cover thereof any words, marks or designs which are grossly offensive or are of an indecent or obscene character."

43. The Customs Consolidation Act, 1876, of Parliament, as applied to the Isle of Man, prohibits the import of indecent or obscene articles.

Article 6

Sexual Exploitation of Woman

44. The Sexual Offences Act, 1967, of Tynwald, is aimed at preventing the sexual exploitation of women. The Act makes it an offence,

(i) to procure a woman to become a prostitute;

(ii) to detain a woman against her will in a brothel;

(iii) to permit girls under the age of 13, or between the ages of 13 and 16, or mentally subnormal females, to use premises for unlawful sexual intercourse;

(iv) or to cause or encourage the prostitution of a girl under 16 for whom a person is responsible, or of a mentally subnormal woman;

(v) for a man to live on the earnings of prostitution;

(vi) to keep or manage a brothel, or to allow the premises to be used as a brothel.

45. It is also an offence to procure a woman to leave the Isle of Man intending her to become an inmate of a brothel for the purposes of prostitution.

46. Rape is an offence under section 1(1) of the Sexual Offences Act, 1967, of Tynwald, for which the maximum penalty is life imprisonment, and, for an attempted rape, 7 years imprisonment.

47. There were 14 sexual offences against women and children in 1987 as follows -

Rape - 0

Indecent assault on a female - 9

Unlawful sexual intercourse with a girl under 16 years - 3

Indecent with children - 2

Article 7

A. Elective Posts

48. Women were granted the right to vote in elections for the House of Keys (the elected branch of Tynwald) as early as 1881 by the House of Keys Election Act, 1881, of Tynwald.

49. The Sex Disqualification (Removal) Act, 1921, of Tynwald, provided that;

"A person shall not be disqualified by sex or marriage from the exercise of any public function, or from being appointed to or holding any civil or judicial office or post, or from entering or assuming or carrying on any civil profession or vocation, or for admission to any incorporated society (whether incorporated by Royal Charter or otherwise)"

50. There are at present two women out of the 24 members of the House of Keys, and, until recently, one of the 8 members of the Legislative Council was a woman. Women take a significant role in the elected local authorities in the Isle of Man.

B. Employment in the Isle of Man Civil Service

51. In the Isle of Man Civil Service men and women have equal opportunity for employment and advancement on the basis of their ability and qualifications and fitness for the work. Equal pay for men and women is provided for in the Isle of Man Civil Service, and in all the sectors of the public service in the Isle of Man.

C. Public Appointments

52. Women as well as men are appointed to public bodies on the basis of their qualities, abilities and experience. Women are well represented amongst the Justices of the Peace and the various statutory boards and committees associated with the Isle of Man Government.

53. Women are free to participate in trade unions, and non-governmental organisations, and play a leading role in the numerous voluntary and charitable organisations in the Isle of Man.

Article 8

54. As the Isle of Man is represented by the United Kingdom at international level, this Article has no direct relevance to the Isle of Man.

Article 9

Nationality and immigration

55. The following reservations have been made in respect of this Article.

> "The British Nationality Act 1981, which was brought into force with effect from January 1983, is based on principles which do not allow of any discrimination against women within the meaning of Article 1 as regards acquisition, change or retention of their nationality or as regards the nationality of their children. The United Kingdom's acceptance of Article 9 shall not, however, be taken to invalidate the continuation of certain temporary or transitional provisions which will continue in force beyond that date."

The British Nationality Act 1981, of Parliament, and

the Immigration Act 1971, of Parliament, both extend to the Isle of Man. Nationality and Immigration are the responsibility of the United Kingdom, although certain functions under both Acts are exercised in the Isle of Man by the Lieutenant Governor. This Article is therefore not directly relevant to the responsibilities of the Isle of Man Government.

Article 10

Education

56. The following reservation was made in respect of this Article -

"The United Kingdom reserves the right to take such steps as may be necessary to comply with its obligations under Article 2 of the First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Paris on the 20th March 1952 and its obligations under paragraph 3 of Article 13 of the International Covenant on Economic, Social and Cultural Rights opened for signature at New York on the 19 December 1966, to the extent that the said provisions preserve the freedom of parental choice in respect of the education of children; and reserves also the right not to take any measures which make conflict with its obligation under paragraph 4 of Article 13 of the said Covenant not to interfere with the liberty of individuals and bodies to establish and direct educational

institutions, subject to the observations of certain principles and standards.

Moreover, the United Kingdom can only accept the obligations under paragraph (c) of Article 10 within the limits of the statutory powers of central Government, in the light of the fact that the teaching curriculum, the provision of text books and teaching methods are reserved for local control and are not subject to central Government direction; moreover, the acceptance of the objective of encouraging co-education is without prejudice to the right of the United Kingdom also to encourage other types of education."

57. The state education system in the Isle of Man is administered by the Department of Education of the Isle of Man Government, assisted by an elected Board of Education to which certain functions in relation to individual schools have been delegated by the Department of Education.

58. Parents are required by law to see that their children receive full time education at school or elsewhere between the ages of 5 and 16. There are 32 primary schools which teach boys and girls together between the ages of 5 and 11, attended by 5,063 pupils in 1987. There are five secondary schools, which teach boys and girls together between the ages of 11 and 18, attended by approximately 4,531 pupils in 1987. No fees are charged to parents of children at state schools, and books and equipment are

free.

59. There are two independent schools, one providing education for both boys and girls attended by 347 pupils in 1987, and one being for girls only, attended by 229 pupils in 1987. Fees are charged by the two independent schools.

60. Further education is provided at the Isle of Man College of Further Education. In 1987 some 481 students successfully completed a variety of courses, and 41 on courses leading to a teaching certificate. Students taking courses to degree standard must attend universities or polytechnics in the United Kingdom. The Department of Education meets the full costs of tuition and makes maintenance grants to students, based on means. In 1987 some 677 students received grants, including 484 who were attending universities and polytechnics in the United Kingdom on courses leading to a Degree or Higher National Diploma. (For statistical information, see pages 103 to 109 of the 1988 Digest).

61. At the request of the Department of Education Her Majesty's Inspectorate in England and Wales are invited to carry out inspections of Isle of Man schools from time to time as appropriate.

Article 11

62. The following reservation was made in respect of this Article -

"The United Kingdom interprets the "right to work" referred to in paragraph 1(a) as a reference to the "right to work" as defined in other human rights instruments to which the United Kingdom is a party, notably Article 6 of the International Covenant on Economic, Social and Cultural Rights of the 19 December 1966.

The United Kingdom interprets paragraph 1 of Article 11, in the light of the provisions of paragraph 2 of Article 4, as not precluding prohibitions, restrictions or conditions on the employment of women in certain areas, or on the work done by them, where this is considered necessary or desirable to protect the health and safety of women or the human foetus, including such prohibitions, restrictions or conditions imposed in consequence of other international obligations on the United Kingdom; the United Kingdom declares that, in the event of a conflict between obligations under the present Convention and its obligations under the Convention concerning the employment of women on underground work in mines of all kinds (ILO Convention No. 45), provisions of the last mentioned Convention shall prevail.

The United Kingdom reserves the right to apply all these territories' legislation and the rules of pension schemes affecting retirement pensions, survivors' benefits and other benefits in relation to death or retirement (including

retirement on grounds of redundancy), whether or not derived from a Social Security scheme.

This reservation will apply equally to any future legislation which may modify or replace such legislation, or the rules of pension schemes, on the understanding that the terms of such legislation will be compatible with the United Kingdom's obligations under the Convention.

The United Kingdom reserves the right to apply the provisions of these territories' legislation concerning the benefits specified;

(a) social security benefits for persons engaged in caring for a severely disabled person;

(b) increases of benefit for adult dependants;

(c) retirement pensions and survivors' benefits;

(d) family income supplements.

This reservation will apply equally to any future legislation which may modify or replace any of the provisions specified in sub-paragraphs (a) to (d) above, on the understanding that the terms of such legislation will be compatible with the United Kingdom's obligations under the Convention.

The United Kingdom reserves the right to apply any non-discriminatory requirement for a qualifying period of employment or insurance for the application of the provisions contained in Article 11(2)."

A. Employment

63. The Isle of Man Government has recently commissioned a study of its employment legislation and reference is made to the report (referred to in Part I of this report as the "Collinson Grant report"). The Isle of Man Government is now studying the Collinson Grant report and the implications for further legislation in connection with employment, including the particular needs of women.

64. The Collinson Grant report sets out the existing statutory provisions, in Appendix 2, in particular those dealing with unfair dismissal where the principal reason is that the employee is pregnant or otherwise connected with pregnancy. (Employment Act, 1986, section 1) - (See page 8 of 19 of the Collinson Grant report).

65. Reference is also made to the provisions relating to the right of an employee to return to work following her confinement (Employment Act 1986, section 3) - (See page 4 of 19 of the Collinson Grant report).

66. Information about the development of Isle of Man employment law will be given in subsequent reports.

67. Unemployment in the Isle of Man at January 1988 was approximately 5% of the work force, namely 869 men and 495 women. (See Part 3 (pages 29-36) of the 1988 Digest for Employment Statistics).

Training

68. Industrial Training is promoted by the Department of Industry of the Isle of Man Government which operates an Industrial Training Centre. Men and women have equal rights to participate in all Training schemes.

B. Health and Safety at Work

69. The Health and Safety at Work Etc. Act, 1974, of Parliament, has been applied to the Isle of Man under the authority of an Act of Tynwald. The Act is administered in the Isle of Man by Officers of the Department of Local Government and the Environment of the Isle of Man Government.

C. The Social Welfare System

70. The Social Welfare System in the Isle of Man is closely modelled on that of the United Kingdom, and most social security benefits are reciprocal, so that persons moving between the United Kingdom and the Isle of Man are treated as having been previously resident in the territory where benefits are claimed. The system comprises the Isle of Man's National Health Service, personal social services and the Social Security System. These three services are all administered by the Department of Health and Social Security of the Isle of Man Government, which, for administrative purposes is divided into the Health Services division, the Social Services division and the Social Security division.

71. Although there are minor differences between the systems in the United Kingdom and the Isle of Man, the standards maintained between the two systems are comparable. The Social Security Act 1976, of Parliament, and subsequent amending legislation, has been applied to the Isle of Man under the authority of an Act of Tynwald.

Article 12

A Provision of Health Services on an equal basis

72. Health care in the Isle of Man is comprehensive and available to all regardless of age, sex or nationality. It is provided through the National Health Service and delivered without charge to Isle of Man residents (visitors are required to pay the full cost of non-emergency treatment). Drugs and medicines for patients not resident in hospitals are dispensed on payment of a prescription fee unless they are in an exempted category (63% of prescriptions issued are exempt from payment).

B Specific services for women

Cervical Screening

73. The Isle of Man has now commenced the computerisation of cervical cancer screening which will within the next two years have all previously screened women on a three year re-call system. This applies to women between the ages of 17 and 65 years. It will also highlight those women who have not come forward for screening and measures will be taken to encourage this group of

woman to undertake this test.

Mammographic Screening

74. The Government has not yet decided whether or not to have an Island wide breast cancer screening service which would require mammographic screening equipment. This is under Ministerial review. Women's groups within the Island have been pressing for this resource.

Women and Smoking

75. Smoking amongst women is still at too high a level and as in the United Kingdom report the mortality from lung cancer amongst women has risen. There have been no specific developments with regard to this subject in the Isle of Man except as part of 'Look After Yourself' programmes - courses which have been run specifically for women's groups (as well as men's groups). It is an area of great concern and will be included in the remit for the Health Promotion Officer when this new post is filled.

Female Circumcision

76. There is no evidence that this practice exists in the Isle of Man.

The Role of the Voluntary Sector

77. Encouragement and support has been given by the nursing sectors both within the hospital and community for the establishment of mastectomy support groups. These in their turn

have gone to the voluntary sector of women's groups and have been funded by these particular groups. Voluntary organisations such as Soroptomists International and the Business and Professional Women's Associations are very supportive of these functions.

Family Planning Services

78. Family Planning advice and services are available through the G.P. services and Family Planning Clinics but are only FREE if deemed medically or socially necessary. The voluntary sector is involved in the provision of Family Planning Services with funding from the Isle of Man Department of Health and Social Security.

C Maternity services

79. The Isle of Man is similar to the United Kingdom in having a range of maternity services through both the hospital and community, although deliveries are not encouraged on the district. The midwives and health visitors take advantage of the use of the publications produced by the Health Education Council and the Health Visitors' Association and produce their own booklets on advice to prospective parents.

Breast Feeding

80. Within the Isle of Man the United Kingdom policy of promoting and protecting breast feeding is adhered to and the code of practice for the marketing of infant formulae has been adopted within the Isle of Man Health Services.

Screening Tests

81. Screening tests are given to all women during pregnancy as in the United Kingdom.

Perinatal Mortality

82. In common with the United Kingdom, there has been a considerable reduction in perinatal mortality over the past 20 years. In 1969, the Perinatal Mortality Rate was 34/1000 but by 1988, this had reduced to 8.9/1000. It should be noted that with a current annual birth rate of less than 800, small variations in perinatal mortality can have a disproportionate effect on the overall rate.

Neonatal Intensive Care

83. Very much in line with neonatal intensive care findings in the United Kingdom.

Welfare Foods Provision

84. Expectant mothers and children up to the age of five, in low income and unemployed families receive, free of charge, 7 pints of liquid milk per week. Where a child is under 7 months the mother may receive either 7 pints of liquid milk per week or the equivalent dried milk.

85. No free vitamins are available.

D Legislation relating to the provision of Health Services

(a) The National Health Service (Isle of Man) Acts, 1948 to 1979, of Tynwald, provide for the running of the National Health Service in the Isle of Man

(b) The Infanticide and Infant Life (Preservation) Act, 1938, of Tynwald, is concerned with the protection of the unborn child.

(c) The Civil Registration Act, 1984, of Tynwald, is concerned with the registration of births, still births, deaths and the disposal of bodies

(d) The Congenital Disabilities (Civil Disability) Act, 1986, of Tynwald, is concerned with civil disability to children born disabled as a consequence of some person's fault

86. There is no equivalent in the law of the Isle of Man to the Abortion Act 1967, of Parliament, and abortions are generally illegal in the Isle of Man, although changes in the law have been under consideration for some time.

Article 13

A. Taxation

87. The principal direct tax in the Isle of Man is Income Tax. There is no capital gains tax or inheritance tax. Men and women are treated on an equal basis for income tax purposes except that a married couple are treated as one unit for income tax purposes and the husband is responsible for the payment of the tax payable by the couple. It is intended that, by 1990, a married woman will

have the option of having her tax assessed separately from that of her husband, and being treated entirely independently for tax purposes

B. Right to family benefits

88. A universal non contributory benefit is payable to all families with children, and is payable to the mother, unless she agrees that it should be paid to the father

C. Financial rights

89. There are no bars on women's rights to bank loans, mortgages or other forms of credit. A woman can enter into a contract freely.

D. The right to participate in recreational activities, sports and all aspects of cultural life.

90. In the Isle of Man, as in the United Kingdom, as recreation, sports and cultural activities are participated in on a voluntary basis, women are free to take part in them as they wish. Sport is promoted in the Isle of Man by the Isle of Man Sports Council. The Isle of Man has for many years taken part as a separate country in the Commonwealth Games and both men and women have represented the Isle of Man

Article 14

Women in rural areas

91. In view of the small area and population of the Isle of Man, it is not practicable to distinguish women in rural areas of the Island from those women who live in urban areas. No part of the Isle of Man is more than 20 miles from the main centre of population and all parts of the Isle of Man are served with electricity, water and sanitation services. The Isle of Man Government, through the Department of Tourism and Transport, runs an extensive public passenger transport system. Manx Telecom Limited provides telecommunications services throughout the Island, under licence from the Isle of Man Government, and the Isle of Man Post Office Authority provides postal services throughout the Island. Health care is provided throughout the Island.

Article 15

92. Men and Women are treated equally in the law of the Isle of Man. They are accorded the same legal personality and women have the same rights as men in the courts of law. The legal limitations which previously applied to women were abolished in Manx law many years ago, principally by the Married Women's Property, Dower and Widowright Act, 1921, of Tynwald.

93. Men and Women have equal rights to enter into contracts. Men and Women have equal rights to be granted legal aid and advice

under the Legal Aid Act, 1986, of Tynwald.

94. Since the enactment of the Domicile and Matrimonial Proceedings Act, 1974, of Tynwald, a married women is entitled to establish a domicile of her choice separate from that of her husband.

95. Upon marriage the husband and wife retain their own separate property and marriage has no effect upon the respective rights of the parties in relation to each other's property, except insofar as marriage affects the laws of inheritance.

Article 16

96. The law of the Isle of Man does not discriminate against women in matters relating to marriage and the family. In all aspects women are treated equally with men.

97. The marriage law of the Isle of Man, now contained in the Marriage Act, 1984, of Tynwald, closely follows the law of England and Wales. Similarly the legal position of women upon marriage, in the Isle of Man, is for practical purposes the same as in England and Wales. In family law, the Isle of Man has for many years kept its law in step with developments in English Law. This applies equally to the law relating to divorce and children, where the substantive and procedural aspects of the law of the Isle of Man are now, for practical purposes, the same as the law of England and Wales. Of particular importance is the Domestic Violence and Matrimonial Proceedings Act, 1978, of Tynwald, which empowers the court to make non-molestation orders and other

injunctions which restrains one spouse from assaulting, molesting or annoying the other spouse and excluding him or her from the matrimonial home.

ANNEX I

The following data have been extracted from the Digest of Economic and Social Statistics 1988, prepared by the Government of the Isle of Man. The complete document is available in English at the Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna and can be consulted in the offices of the Division for the Advancement of Women.

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'SLE OF MAN DIGEST OF ECONOMIC AND SOCIAL STATISTICS 1988

Introduction

This publication is intended to present a detailed set of information on a comprehensive range of topics. It is hoped that the Digest covers most areas of public interest.

Each section begins with a commentary introducing and explaining the tables and charts which follow. Information has been provided by a considerable number of contributors, whose valuable assistance is much appreciated.

The Isle of Man Digest of Economic and Social Statistics 1988 was researched and compiled by:-

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THE ISLE OF MAN IN 1988:

AN ECONOMIC COMMENTARY

The Isle of Man economy has experienced sustained growth over recent years to the extent that, in early 1988, many sectors were operating close to full capacity. The Isle of Man Government's initiative to stimulate population growth and economic activity by increasing awareness of the Island's advantages has produced a significant influx of new residents and businesses, which has in turn provided employment opportunities throughout the economy. The extent to which business activity has increased is measured by the performance of certain key indicators, and the following results reveal an obvious trend. Unemployment in the Island has been reduced from 1,920 (7.0%) in April 1987 to 1,044 (3.8%) in April 1988 (the lowest figure recorded since September 1981). The number of business people visiting the Island in the first 3 months of 1988 was 53% higher than that in the first quarter of 1987. The average number of international telephone calls made each day from the Isle of Man increased by over 30% during 1987/88. Local estate agents have estimated the increase in the average sale price of residential property during 1987 to be around 35%, with a further rise of 15% to 20% anticipated during 1988. In addition, office rents are thought to have risen by almost 40% since the middle of last year. Local traders have reported a considerable rise in demand for staple foodstuffs and anecdotal evidence from a range of companies suggests that significant expansion has occurred within the business community. Also, there has been a significant improvement in services on offer including hotel and restaurant facilities and improved air services, in terms of both frequency and comfort.

It has been estimated that the increase in population that accompanied the growth in business activity has been over 6% since the 1986 Census, suggesting a current resident population of around 69,000. While such growth is welcomed and demographic expansion remains Government policy, increasing attention has recently been given to formulating appropriate measures to identify and overcome the various problems associated with economic and population expansion. It is appreciated that economic and population growth occurs under certain constraints, which in the case of the Isle of Man are the preservation of the natural environment and the high standard of social services provided. In short, the maintenance of the Island's exceptionally high quality of life. If the current rate of population growth continues, a resident population of 75,000, which is the current target figure, will be reached in less than 5 years. Government is aware that appropriate policies must be formulated to ensure that growth takes place at a rate that is compatible with the Island's economy and acceptable to its residents. The success of the new resident policy thus far has allowed Government to be even more selective about the type of business activity it encourages. Individuals involved in criminal activities such as drug trafficking and insider dealing are strictly deterred from conducting their affairs in the Isle of Man.

Sectoral performances are discussed in the relevant sections of the Digest of Economic and Social Statistics 1988. In brief, the finance industry continues to provide the largest contribution to national income. In 1985/86 (the most recent year for which figures are available), the majority of finance income was earned by companies, a total of £34 million which, when combined with the income earned by

individuals within the sector (£14 million) produced a figure for total income earned in finance of £48 million (almost 22% of total income earned from Manx sources). Employment in the Island's finance industry has also increased, with insurance emerging as a particular growth activity. The success of the finance industry was also reflected in the increase in incomes earned in the professional and scientific services sector, which includes many of those employed directly or indirectly by financial concerns, such as advocates and accountants. Total income earned by individuals in this sector was nearly £26 million, the highest in any sector. Another sector to benefit from the expansion in the finance industry has been construction, with many developments being undertaken at present to accommodate financial institutions. Personal incomes of £25 million comprised 76% of total income earned in manufacturing during 1985/86, underlining the continued importance of this sector in generating income and employment opportunities. The opening of the Freeport will provide further impetus to the growth of manufacturing and will add an interesting dimension which should appeal particularly to those involved in international trade.

The Island's tourist industry presented some encouraging evidence of successful restructuring in 1987. In an attempt to alter the Island's traditional mass market appeal in favour of the leisure market, the basic services provided by the industry in terms of catering, accommodation and air transport have significantly improved. Reasons for concern remain, however, particularly regarding falling summer arrivals, although the Department of Tourism and Transport is confident that its current marketing campaign is attracting tangible interest from increased numbers of visitors.

An area of particular interest at present is the manner in which the changing nature of the European Community will affect the Isle of Man economy. When the United Kingdom became a member of the European Community in 1973, the Isle of Man obtained a special relationship with the Community whereby the Island is not a member but is deemed to lie within the external tariff barriers. This has ensured that free trade can take place with the Community but that the Island is not involved with budgetary commitments or harmonisation proposals. With current moves towards "closing the internal market" (the removal of internal barriers, reductions in direct and increases in indirect taxation and the harmonisation of banking supervision and company law) which is expected to be achieved by the end of 1992, it is widely considered that the Island's relationship with the European Community should be monitored. It may, for example, become increasingly difficult for the Island to remain within the Community's free trade area while developing its economy independently of Community policy. In a recent study of this matter, the Isle of Man Treasury suggested that the Island should make an effort to build a customer base for its industries emphasising quality, reputation and flexibility rather than low cost or fiscal attraction. Government will continue to examine this vital topic as preparations for the Single European Market proceed, and further reports are expected.

J.H. Webster,
Economic Adviser,
Economic Adviser's Office,
April 1988.

2.3 ISLE OF MAN RESIDENT POPULATION BY SEX, TOWN, VILLAGE AND PARISH DISTRICT

April 1986

	Male	Female	Total
Towns:			
Douglas	9,756	10,612	20,368
Ramsey	2,687	3,091	5,778
Peel	1,741	1,919	3,660
Castletown	1,492	1,527	3,019
Village Districts:			
Port Erin	1,335	1,533	2,868
Port St. Mary	733	877	1,610
Laxey	626	653	1,279
Onchan	3,605	4,003	7,608
Michael	280	294	574
Parish Districts:			
Andreas	520	595	1,115
Arbory	774	836	1,610
Ballaugh	343	402	745
Braddan	829	975	1,804
Bride	186	192	378
German	508	543	1,051
Jurby	308	274	582
Lezayre	660	702	1,362
Lonan	551	588	1,139
Malew	1,010	1,044	2,054
Marown	625	656	1,281
Maughold	372	383	755
Michael	235	235	470
Onchan	183	158	341
Patrick	534	510	1,044
Rushen	676	684	1,360
Santon	213	214	427
ISLE OF MAN	30,782	33,500	64,282

Source: Economic Adviser's Office.

2.5 AGE DISTRIBUTION OF ISLE OF MAN RESIDENT POPULATION

April 1986

Age Last Birthday	Male	Female	Total
0-4	1,700	1,669	3,369
5-9	1,853	1,777	3,630
10-14	2,225	2,099	4,324
15-19	2,452	2,298	4,750
20-24	2,299	2,147	4,446
25-29	1,861	1,911	3,772
30-34	1,864	1,867	3,731
35-39	2,282	2,280	4,562
40-44	1,929	1,988	3,917
45-49	1,761	1,760	3,521
50-54	1,639	1,639	3,278
55-59	1,578	1,896	3,474
60-64	1,788	2,146	3,934
65-69	1,625	1,994	3,619
70-74	1,592	2,046	3,638
75-79	1,220	1,712	2,932
80-84	604	1,256	1,860
85-89	242	577	819
90-94	44	185	229
95 and over	14	47	61
Not stated	210	206	416
Total	30,782	33,500	64,282

Source: Economic Adviser's Office.

2.6 BIRTHS, MARRIAGES AND DEATHS IN THE ISLE OF MAN

	BIRTHS			DEATHS			MARRIAGES
	Total	Males	Females	Total	Males	Females	
1950	849	457	392	762	383	379	428
1951	837	417	420	867	429	438	409
1952	806	426	380	803	407	396	380
1953	719	381	338	764	363	401	333
1954	625	323	302	829	411	418	326
1955	615	332	283	772	355	417	352
1956	632	313	319	836	403	433	361
1957	632	297	335	748	392	356	343
1958	662	328	334	735	383	352	297
1959	641	323	318	760	345	415	332
1960	683	352	331	808	412	396	326
1961	663	334	329	859	429	430	325
1962	675	362	313	795	389	406	333
1963	708	356	352	848	435	413	355
1964	687	361	326	768	406	362	325
1965	712	363	349	844	410	434	309
1966	642	334	308	842	402	440	334
1967	702	372	330	867	408	459	372
1968	686	365	321	868	432	436	394
1969	760	386	374	905	460	445	424
1970	840	459	381	909	456	453	447
1971	804	404	400	924	470	454	398
1972	843	455	388	1,056	512	544	463
1973	807	361	446	921	451	470	393
1974	748	411	337	1,079	525	554	418
1975	692	341	351	992	484	508	408
1976	721	382	339	977	479	498	396
1977	672	351	321	1,007	517	490	395
1978	694	367	327	1,038	506	532	403
1979	758	402	356	972	495	477	420
1980	741	375	366	1,015	507	508	399
1981	752	385	367	979	477	502	420
1982	724	378	346	983	497	486	394
1983	680	321	359	943	465	478	359
1984	666	345	321	974	479	495	378
1985	703	345	358	1,045	507	538	333
1986	709	363	346	952	471	481	350
1987	729	353	376	925	468	457	435

Note: The figure for marriages in 1987 is a provisional estimate.

Source: General Registry.

10.2

SOCIAL SECURITY BENEFITS

Numbers of Claims in Payment at 31st March

Type of Benefit	1975	1980	1981	1982	1983	1984	1985	1986	1987	1988
Attendance Allowance	235	408	398	402	470	501	525	552	617	658
Child Benefit (Family Allowances) (i)	4,166	6,967	6,934	6,977	6,834	6,685	6,547	7,320	7,260	7,347
Child Benefit Increase	0	563	623	732	804	847	880	904	889	996
Child's Special Allowance	1	3	3	3	3	3	4	5	5	5
Death Grant (ii)	665	646	752	663	891	871	912	983	929	154
Family Income Supplement (iii)	0	36	43	92	168	265	270	463	485	431
Funeral Payments	0	0	0	0	0	0	0	0	0	743
Guardian's Allowance	3	2	1	2	3	3	2	2	3	2
Invalid Care Allowance	0	24	23	24	19	18	15	24	88	108
Industrial Injuries Benefit (iv)	11	12	21	14	10	8	9	0	0	0
Industrial Injuries Death Benefit (Widows)	38	25	25	28	26	27	28	28	25	24
Industrial Injuries Disablement Benefit	57	63	65	72	111	105	131	143	153	165
Maternity Benefit Grants (ii)	560	595	544	567	549	660	619	680	649	62
Maternity Benefit Allowances	73	112	112	94	97	78	114	84	65	33
Mobility Allowance	0	69	95	114	116	124	133	166	221	245
National Insurance Invalidity Benefit	374	469	515	570	620	675	733	797	870	888
Old Persons' Pensions (Over 80's)	237	141	123	112	99	124	123	111	116	123
Personal Injuries	3	3	3	3	2	2	2	2	2	2
Retirement Pension	12,470	13,874	13,895	14,038	14,126	14,206	14,393	14,680	14,830	14,943
Severe Disablement Allowance	0	0	0	0	0	0	176	170	184	186
Sickness Benefit	304	310	288	315	294	390	260	255	181	271
Unemployment Benefit (v)	545	609	961	1,026	1,275	1,139	1,112	1,061	982	559
Widow's Benefits	771	655	632	607	603	585	578	555	532	524
Total Claims in Payment	**20,513**	**25,586**	**26,058**	**26,455**	**27,120**	**27,316**	**27,566**	**28,985**	**29,086**	**28,469**

Notes: (i) From 1986 total includes Child Benefit increase cases.
(ii) Figures given represent the number of grants awarded during the year.
(iii) These figures relate to 1st April for the years concerned.
(iv) After 1985, this figure was included in the total for Sickness Benefit.
(v) Figures up to and including 1981 relate to the number registered as unemployed - from 1982 figures refer to the number in receipt of unemployment benefit.

Source: Department of Health and Social Security.

10.3

SUPPLEMENTARY BENEFITS: PENSIONS AND ALLOWANCES

Year ending 31st March	Retirement Pension	Blind	Sick	Handi-capped	Women with dependent children or too old to work	Persons required to register for work	Others	Total
1965	1,066	58	122	93	115	136	14	1,604
1966	1,093	54	136	92	122	140	5	1,642
1967	1,305	50	134	96	144	136	0	1 865
1968	1,320	47	136	102	154	128	0	1,887
1969	1,330	47	139	98	202	125	0	1,941
1970	1,291	45	121	104	175	33	0	1,769
1971	1,380	55	155	99	192	103	0	1,984
1972	1,428	50	155	92	207	149	0	2,081
1973	1,419	50	161	98	223	97	0	2,048
1974	1,430	48	142	103	228	90	0	2,041
1975	1,459	45	131	104	240	128	0	2,107
1976	1,472	38	135	95	261	211	0	2,212
1977	1,516	31	133	94	265	213	0	2,252
1978	1,591	25	131	95	251	221	0	2,314
1979	1,559	26	123	78	179	153	0	2,118
1980	1,608	23	120	89	148	114	12	2,114
1981	1,565	26	137	87	141	153	29	2,138
1982	1,612	27	146	84	181	375	30	2,455
1983	1,615	26	163	86	222	691	34	2,837
1984	1,778	32	191	81	262	928	64	3,336
1985	1,931	31	247	85	337	1,136	61	3,828
1986	1,982	24	227	83	366	1,189	59	3,930
1987	2,010	23	242	80	376	915	49	3,695

Source: Department of Health and Social Security.

ANNEX II

The following sections have been extracted from the Report and Recommendations to the Social Issues Committee of Executive Council on Law Relating to Employment for the Isle of Man, October 1988, prepared by Collinson Grant Consultants Limited. The complete document is available in English at the Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna and can be consulted in the offices of the Division for the Advancement of Women.

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Section 2: Executive Summary

2.1 Individual Rights
2.2 Trade Unions and Collective Rights
2.3 Employers' Associations
2.4 Codes of Practice
2.5 The Employment Tribunal
2.6 The Industrial Relations Service
2.7 Work Permits
2.8 Communicating the New Law

Section 5: Statistics: Employers and Labour Force

Table 1: Number of Employers and Employees

Table 2: Employment by Industrial Sector: Numbers in Employment and Percentages

Table 3: Unemployment in the Isle of Man

Appendix 10: Review of "A Handbook for Employing People in Smaller Firms", Published by Manx Industrial Relations Service (13th July 1988)

1. Introduction
2. Sources
3. "Small" Firms
4. Content
5. Legal Requirements and Good Practice
6. Conclusion

Appendix 11: Information Paper "International Comparisons" (28th September 1988)

A Summary Comparison of Individual Rights

2. EXECUTIVE SUMMARY

This section lists our main recommendations but we urge each reader to examine closely the background and context of the statements. The section containing a recommendation is in brackets.

2.1 Individual Rights

Written statement of terms of employment (9.1): retain the current provisions.

Itemised pay statements (9.2): retain present situation.

Control on deductions from pay (9.3): there should be new legislation to control deductions from pay, and to restrict the amount of deductions from pay for employees with jobs in retail. The Employment Tribunal should have power to order an employer to repay to an employee the amount of a deduction incorrectly made.

Trade union membership and activities (9.4): retain the protection against dismissal for matters associated with membership of a trade union or taking part in trade union activities. There should be a new right of employees not to have action short of dismissal taken against them by their employer because they are members of a trade union or, because of their trade union activities. The Employment Tribunal should have the power to make an award of compensation.

Time off work (9.5): there should be a new right of employees who are members of a registered trade union to time off work to conduct trade union duties and/or activities. Also there should be a right to time off work for specified public duties and to look for work when given notice of redundancy. The Employment Tribunal should have power to award compensation where an employee is unreasonably refused time off work.

Maternity (9.6): the right should remain of employees not to be dismissed because of pregnancy. The right of employees to return to their job after maternity leave should be broadened to a right of return to a reasonable alternative job. The maternity benefit should be retained but there should be a new right of employees to have time off work to receive ante-natal care.

Disabled Persons (9.7): retain the present provisions.

Minimum periods of notice (9.8): extend the statutory minimum periods of notice.

Rights during notice (9.9): retain the current provisions.

Written reasons for dismissal (9.10): there should be a new right of employees to be given by their employer written reasons for dismissal. Where a statement is not issued the Employment Tribunal should have power to make an award and/or make a declaration as to what it finds to be the reasons for dismissal.

Unfair dismissal (9.11): there should be a new and general right of employees not to be unfairly dismissed. The Employment Tribunal should have power to award compensation but not to order reinstatement.

Discrimination (9.12): the rights under unfair dismissal should include dismissal on the grounds of marital status, race, religion or sex.

Insolvency (9.13): strengthen the protection for employees in the event of their employer becoming insolvent.

Excluded categories (9.17): certain categories of employees should not be entitled to some of the new rights, but there should be no exemption for small employers.

Minimum wages (9.18): no extension of statute on minimum wages.

2.2 Trade Unions and Collective Rights

Definition of a 'trade union' (10.1): there should be a statutory definition of a 'trade union', which provides the foundation for a proposed scheme of registration.

The legality of trade unions (10.2): trade unions should be formally accorded legal status to relieve them from possible illegality under the common law.

Trade unions and the courts (10.3): trade unions should be given the legal personality necessary to enter into contracts and to bring and defend legal proceedings in their own names. This should be subject to limitation in the case of unregistered trade unions. Retain existing legal procedures for recovery of trade union assets held in the United Kingdom.

Registration of trade unions (10.4): an official register of trade unions should be established. There should be fines and withdrawal of immunity and time off provisions for unregistered trade unions. Trade unions should nominate a registered address on the Island and resident officer(s).

Freedom to take industrial action (10.5): a limited legal freedom to take industrial action should be in the form of immunities.

Industrial action and the contract of employment (10.6): an employer should be free to dismiss strikers, but a right to claim unfair dismissal should exist if the employer is selective in the treatment of strikers.

Definition of a 'Trade Dispute' (10.7): a statutorily defined 'trade dispute' should be the basis of the proposed immunities, as well as of the extant machinery for settlement of disputes.

Immunities (10.8): immunities should protect organisers of and participants in industrial action from civil liability for:

- inducing the breach of a contract of employment;
- inducing the breach of a commercial contract;
- conspiracy;
- threatening breach; and
- breach of the contract of employment.

Conditions for and limitations on immunity (10.9): immunities should only be available if industrial action satisfies cumulative standards:

- it is taken 'in contemplation or furtherance of a trade dispute';
- it is organised by a registered trade union or an accredited official thereof;
- it has been approved in advance by secret ballot;
- it only occurs after a cooling-off period (initially of 7 days with a possible 7 day extension);
- it is not secondary action;

- it is not taken for the purpose of enforcing an individual's trade union membership against his will;

- any related picketing is lawful; and

- it does not involve the essential services.

Trade union immunity (10.10): a trade union itself should not be liable for unlawful industrial action if it did not authorise/endorse it or it has repudiated it.

Picketing (10.11): there should be a legal freedom to picket, confined to the place of work and to a maximum of 6 persons.

The essential services (10.12): disputes in the 'essential services' should be subject to compulsory and binding arbitration, to be conducted by a Court of Inquiry.

2.3 Employers' Associations

An official register of employers' associations should be established. (11).

2.4 Codes of Practice

Codes of practice covering certain topics should be issued (12).

2.5 The Employment Tribunal

The Tribunal should no longer have responsibility for the resolution of collective disputes (13).

2.6 The Industrial Relations Service

The Service should undertake a more active part in resolving cases of unfair dismissal (13).

2.7 Work Permits

Work permits should be transferred from a specific job to a named individual after a certain period of time (14).

2.8 Communicating the New Law

There should be publicity on the rights of employees and on the work of the Industrial Relations Service (15).

3. THE CONTEXT OF EMPLOYMENT LAW

An examination of our methods and recommendations will benefit from a brief introduction to the nature of law and, in particular, the law and employment. There has to be one preliminary warning: a tight definition of 'law' is not possible.

'Law' is the aggregate of rules of conduct which are enforceable by judicial means. It is the way in which a community allocates and exercises power over people and things. Law may be related to, but is by no means the same as, morality and social justice. It is not normally the first resort for the resolution of issues - other solutions will be tried and fail before recourse to the law.

Laws are rules derived from judicial precedent, from legislation and from custom. Legislation provides the principal mechanism for change in laws, and may serve to codify, support or modify custom or judicial precedent. It may equally be introduced to reverse these where the results of their application are seen to be unjust.

Law derives from the community in which it exists. It reflects the past, present and sometimes future concerns of the community, and the perceptions the community has of itself. Moreover, it reflects historical and extant political power. Law is not fixed; it will change as society changes. Thus, law will confront circumstances differently in each state. Communities with similar objectives may have different laws arising from their special history and evolution.

5. STATISTICS: EMPLOYERS AND LABOUR FORCE

The population of the Isle of Man is estimated to be 69,000. Excluding self-employed, there are 2,530 employers. Table 1 highlights the special circumstances of the Island. Seventy percent of employers have 5 employees or less; only 11 employers employ 100 or more, and one of those is the Government.

Table 1 Number of Employers and Employees

Number of Employees	Number of Employers	Percentage of Employers
1-5	1,762	70%
6-10	349	14%
11-20	199	8%
21-30	84	3%
31-40	32	1%
41-100	93	4%
over 100	11	less than 1%
TOTAL	2,530	

Source: Treasury Department 1988.

An analysis of employment by industrial sector is set out in Table 2. The table classifies persons aged 15 and over according to the industry in which they are employed, whatever their occupation, using information from Census Reports.

Between 1961 and 1981 the percentage increase in working population (36%) broadly matches that of the resident population (37%). The decline in agriculture, forestry, fishing and tourism has been more than compensated for by expansion in other categories. Significantly the increase in the number of employees in the finance sector has been more than fourfold, from 370 to

Table 2 Employment by Industrial Sector: Numbers in Employment and Percentages

	1961	%	1971	%	1981	%
Agriculture, forestry, fishing	1,911	10	1,433	6	1,412	5
Manufacturing: food, drink and tobacco	435	2	538	2	733	3
Manufacturing: engineering	620	3	1,215	5	1,501	6
Manufacturing: textiles, clothing, footwear	621	3	599	3	395	2
Manufacturing: other; mining, quarrying	513	3	759	3	838	3
Construction	1,664	9	2,755	12	2,921	11
Gas, electricity, water	465	2	504	2	496	2
Transport and Communication	1,875	10	1,750	8	2,300	9
Wholesale distribution	672	4	845	4	867	3
Retail distribution	2,411	13	2,696	12	2,687	10
Insurance, banking, finance and business services	370	2	760	3	1,515	6
Professional, educational, medical and scientific services	1,702	9	2,690	12	3,737	14
Tourist accommodation) Other catering and entertainment) Miscellaneous services)	4,344	23	1,451 678 1,954	7 3 9	987 996 2,530	4 4 10
Public administration and defence	1,250	7	1,134	5	1,625	6
Not stated or inadequately described	146	1	372	2	324	1
TOTALS	18,999	101	22,133	98	25,864	99

Source: Economic Adviser's Office

1,515: a survey in December 1987 revealed continued expansion to 2,074 employees. Manufacturing (14%), distribution (13%), construction (11%) and professional, educational, medical and scientific services (14%) account for more than half the Island's employment, demonstrating a well-mixed economy.

The rapid development of the finance sector has generated a broad-based expansion in the economy. In particular the construction industry is benefiting from the development of office, retail and hotel accommodation. The effect has been a continued reduction in unemployment to (currently) approximately 2.5% of the economically active population, as illustrated in Table 3.

Table 3 Unemployment in the Isle of Man

	Male	Female	Total	% of economically active population
August 1981	651	229	880	3.2
August 1982	1,011	433	1,444	5.2
August 1983	1,133	421	1,554	5.6
August 1984	1,244	441	1,685	6.1
August 1985	1,404	619	2,023	7.3
August 1986	1,274	608	1,882	6.8
August 1987	840	465	1,305	4.7
August 1988	492	243	735	2.5

Source: Department of Health and Social Security

There are 23 trade unions with members on the Island. With the exception of the Manx Democratic Workers Union and the Manx Firemans' Union, all are branches of United Kingdom unions. Of these, only the Transport and General Workers' Union (TGWU) and the National Union of Seamen have premises on the Island: the TGWU has the only resident fulltime official.

APPENDIX 10

July 1988

ISLE OF MAN: LAW RELATING TO EMPLOYMENT

REVIEW OF

'A HANDBOOK FOR EMPLOYING PEOPLE IN SMALLER FIRMS'

ISSUED BY THE

MANX INDUSTRIAL RELATIONS SERVICE

1. INTRODUCTION

'A Handbook for Employing People in Smaller Firms' has been produced by the Manx Industrial Relations Service. Its intention is to 'assist the busy small firm deal with the most important employment areas and operate simple but effective employment practices.' This paper assesses the extent to which the Handbook achieves its objectives.

2. SOURCES

The Handbook's author writes that the publication 'is the culmination of personal experience together with assistance from the Advisory Conciliation and Arbitration Service (ACAS) in Britain and the Labour Relations Agency (LRA) in Northern Ireland'. However, the Handbook is, in the main, a reproduction of the ACAS booklet 'Employing People - The ACAS handbook for small firms', first published in 1985. There are amendments to take account of Manx legislation.

3. 'SMALL' FIRMS

The Handbook does not define 'small firm'; nor does it point out that a relatively small number of additional employees can require substantial changes to such companies' employment procedures. ACAS says 'there is an enormous difference in the employment needs of a firm employing three people and one employing 30', and recommends that each firm decides on the parts of the booklet that suit its own circumstances. The Handbook appears to be recommended in its entirety. Moreover, a 'small firm' in Britain is regarded as one with up to 200 employees: a Manx employer of this size would be amongst the largest on the Island.

According to a survey conducted in 1986 by the Manx Industrial Relations Service, 85% of around 2400 firms which employed people for 16 hours or more per week had no more than six employees. This suggests that in the majority of companies on the island:

- the 'chief executive' is the owner;
- employees have direct access to the owner;

- there are no formal structures;
- there are minimal administrative resources;
- trades unions are not recognised.

Because such a high proportion of Manx companies have these characteristics, any document which advises on employment must take account of the particular situations of these companies.

4. CONTENT

The Handbook has sections on:

- personnel records and manpower planning;
- recruitment practice and interviewing;
- the employment contract and associated statutory rights;
- pay systems and methods of payment;
- training;
- disciplinary rules and procedures;
- dismissal;
- absence and labour turnover;
- communications;
- employee representation;
- administrative requirements and sources of further advice.

These are all legitimate aspects of employing people to consider in an advisory booklet and the Handbook provides advice which is consistent with 'good practice' in companies of all sizes. However, it does not address directly the issues specifically from the position of the majority of Manx employers. For example, it is not realistic to expect employers of few people to:

- computerise personnel records;
- develop personnel specifications;
- provide social and recreational facilities;
- establish works committees.

These matters may have to be considered as a company grows. But discussing

them in a Handbook which is to be read and interpreted by the owner of a small business, without qualification, is unhelpful.

5. LEGAL REQUIREMENTS AND GOOD PRACTICE

The Handbook makes frequent reference to statutory requirements, but does not clearly set out what the small employer may or may not do, or what the consequences of unlawful actions are. Some examples are:

- 'Employers are reminded of their obligations under the Disabled Persons (Employment) Act 1946'. This Act applies to companies with 20 or more employees;

- 'disagreements over the changes (to an employment contract) may lead to the ending of the contract and employers facing claims'. An employee cannot claim compensation for constructive dismissal in the Isle of Man;

- 'In certain limited circumstances employees may have the right to apply to the Employment Tribunal claiming they were wrongfully dismissed'. The 'limited circumstances' are not set out.

It is important to the owner of a small business that he/she has a simple reference document of 'dos and don'ts' which describes employers' and employees' rights and obligations. The guide to the Contracts of Employment Act 1981 and the Employment Act 1986, also issued by the Manx Industrial Relations Service, meets this need in part but is not referred to in the Handbook.

The booklet produced by ACAS is directed at employers in Britain. It takes into account two factors which do not apply in the Isle of Man:

- Britain's statute and case law;

- ACAS's Codes of Practice.

In most circumstances, these require British employers to show they acted reasonably, consistently and in accordance with their disciplinary

procedures, if successful unfair dismissal claims are to be avoided. Codes of practice and case law have established minimum standards of 'good practice' in Britain but not so in the Isle of Man.

Employees who are dismissed may be compensated under existing Manx legislation, subject to certain qualifications, if the principal reason for dismissal:

- is related to trade union membership (or non-membership) or activities;

- is related to pregnancy;

- * was because the employee is legally prohibited from working by a specified illness;

- was because the employee was required to be absent to undertake public duties.

* note: this is not the same as 'normal' absence through sickness.

If the employer can show the reason for dismissal was not one of these reasons there is no entitlement to compensation. This is not made clear in the Handbook.

The Handbook recommends that employers should adopt similar procedures in relation to disciplinary action as are required Britain. These procedures have their roots in decisions of courts in the United Kingdom and statutory Codes of practice. There is no legal requirement for Manx employers to:

- act consistently;

- investigate cases fully;

- allow employees to be represented;

- issue warnings prior to dismissal in cases which do not constitute gross misconduct;

- consider alternatives to dismissal.

The Handbook is wrong to indicate that Manx employers will risk allegations of unfair dismissal if they do not meet these standards.

6. CONCLUSION

The Handbook provides advice on good practice on the principal issues of employing people. The advice on matters such as recruitment, pay and absence is in most cases sound and is generally that provided by ACAS to small firms in Britain. But no attempt has been made to show the special needs of small Manx companies, and the advice 'imports' matters which are required by law in Britain but not the Isle of Man.

A SUMMARY COMPARISON OF INDIVIDUAL RIGHTS

SUBJECT	ISLE OF MAN	THE REPUBLIC OF IRELAND	FRANCE	SWEDEN	UNITED KINGDOM	THE FEDERAL REPUBLIC OF GERMANY	States out of 18 in sample with relevant law
WRITTEN PARTICULARS OF EMPLOYMENT (OR EQUIVALENT)	YES	YES	YES	NO	YES	NO	7
ITEMISED PAY STATEMENT	YES	YES	YES	YES	YES	NO	14
CONTROL OF PAY DEDUCTIONS	NO	YES	YES	YES	YES	YES	15
GUARANTEED PAY	NO	NO - Except limited arrangements for construction industry	YES Full pay, but employer may receive assistance from state	YES - 'normal benefits' after 2 weeks' lay off or 30 days in a calendar year	YES - 5 days in 3 months - £11.30 per day maximum	NO	10
TIME OFF	NO (Although compensation if dismissed)	Seeking new job during redundancy et cetera) Paid Jury service) Paid	Trades Union (TU) duties) Paid Seeking new job during redundancy et cetera) Paid	TU duties) Paid Seeking new job during redundancy et cetera) Paid Public duties) Paid Education) Paid	TU duties) Paid Ante-natal care) Paid Seeking new job during redundancy et cetera) Paid Jury service) Paid TU activites) Un-paid Public duties) paid	TU duties) Paid Family matters) Paid	15
PARENTAL LEAVE IN RELATION TO CHILDBIRTH ET CETERA	- Approximately 18 weeks' maternity leave: unpaid. - 2 years' continuous employment	- 14 weeks maternity leave; unpaid but social security. - 4 weeks' optional extra leave	- 16 weeks' paid maternity leave. - 1 year's optional extra unpaid leave if 1 year's continuous employment. - 3 days' paid paternity leave around birth.	- 18 months' parental leave (split as agreed): unpaid, but social security. - 10 days' paternity leave around birth (unpaid but social security)	- approximately 40 weeks maternity leave, 18 paid - 2 years continuous employment	- approximately 8 months' paid maternity leave.	17
MINIMUM NOTICE PERIODS	- 1 month-2 years' employment: 1 WK - Otherwise for each year of continuous employment after the first: 1 WEEK subject to an 8 week maximum	- 13 weeks'-3 years' employment: 1 WEEK - 2-5 years' employment: 2 WEEKS - 5-10 years' employment: 4 WEEKS - 10-15 years' employment: 6 WEEKS - 15 years' or more employment: 8 WEEKS	Although no universal minimum is defined, various codes and national agreements mean an effective legal minimum of one month (blue collar) and three months (white collar)	- 1 MONTH basic - 2-6 MONTHS depending on age, for employee with 6 months' or more employment	- 1 month-2 years' employment: 1 WEEK - 2-12 years' employment: 1 WEEK PER YEAR - 12 years' or more employment: 12 WEEKS	- Basic 2 WEEKS (INDUSTRIAL) and 6 WEEKS (WHITE COLLAR) - Extension with seniority	16

SUBJECT	ISLE OF MAN	THE REPUBLIC OF IRELAND	FRANCE	SWEDEN	UNITED KINGDOM	THE FEDERAL REPUBLIC OF GERMANY	States out of 18 in sample with relevant law
PROTECTION AGAINST 'UNFAIR' DISMISSAL							17
EMPLOYMENT QUALIFICATION	13 weeks (medical suspension) 2 years (pregnancy) Otherwise: NONE	1 YEAR	2 YEARS		2 YEARS	6 MONTHS	
REMEDIES	Compensation (maximum of 3 times 'due notice' pay)	RE-EMPLOYMENT or COMPENSATION (maximum of 2 years' pay)	COMPENSATION (maximum of 6 months' pay)	Declaration of invalidity of dismissal (re-employment) : otherwise COMPENSATION (16-32 months' pay depending on service)	RE-EMPLOYMENT or COMPENSATION (normally c£13,000)	COMPENSATION (maximum of 6 months' pay) Dependant on seniority	5 (re-employment)
REDUNDANCY PAYMENTS	NO	YES	YES (Paid by State)	YES (Provision of part compensation of employees by state)	YES	YES	14
EMPLOYMENT QUALIFICATION		2 YEARS	Varies depending on type of redundancy: normally 3-6 months	NONE	2 YEARS	NONE	
PAYMENT FORMULA		· £211.54 (Irish) maximum on a 'week's pay' · 60% rebate for employers	Continuing payment of a decreasing proportion of salary (initially 70%). The system works in tandem with social security benefits	NONE	· £164 maximum on a week's pay · maximum of 20 years' employment counted · 35% rebate for employment of 9 or less	NONE Legal obligation to negotiate compensation scheme (with binding arbitration if no agreement)	
DISCRIMINATION PROVISIONS	NO	· Sex	· Sex · Race · Trade Union membership/activity	· Sex ('positive discrimination' allowed) · Race · Trade Union membership/activity	· Sex · Race · Trade Union membership/activity	· Sex (constitution)	13
EQUAL PAY	NO	YES	YES	YES	YES	YES (constitution)	
INSOLVENCY RIGHTS	YES	YES	YES		YES	YES	9

NOTE: The 18 states included in the broader survey are Austria, Belgium Denmark, Finland, Greece, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Switzerland and the six specifically mentioned in the table